IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HON'BLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 21ST JUNE 2007 / 31ST JYAISHTA 1929

WA.No. 1338 of 2007()

AGAINST THE JUDGEMENT IN OP.3613/2003 Dated 12/12/2006

APPELLANT: PETITIONER:

S.P.BEEFATHU, AGED 42 YEARS,
W/O.K.HAMSA, KAKKINISSERI P.O.,
PAYYANNUR, KANNUR DISTRICT.

BY ADV. SRI.M.V.AMARESAN

RESPONDENTS: RESPONDENTS
---

1. TAHSILDAR, TALIPARAMBA, KANNUR.

2. VILLAGE OFFICER, PAYYANNUR, KANNUR.

3. DISTRICT COLLECTOR, KANNUR.

BY SPECIAL GOVERNMENT PLEADER FOR TAXES
SRI.V.V.ASHOKAN.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 21/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN,J.

W.A. NO. 1338 OF 2007

Dated this the 21st June, 2007

JUDGMENT

H.L.DATTU, C.J.

Appellant, being aggrieved by an order of re-assessment passed by the assessing authority, was before this Court in O.P.No.3613 of 2003.

2. The assessee had raised two contentions before Court. The first contention was with regard to the period of limitation and the second one was that the re-assessment order was passed without notice to her.

3. So far as the first contention is concerned, learned single Judge was of the opinion that the order of assessment was passed on 24.11.1999 and re-assessment order was passed on 18.11.2002 and that is within the period prescribed under Section 15 of the Kerala Building Tax Act.

4. In so far as the second contention of the appellant that the re-assessment order was passed without notice to her is concerned, in our opinion, the same is to be accepted, for the reason, that nowhere in the order it is mentioned that the order of re-assessment is passed after notice to the appellant/petitioner. An order passed without notice to the assessee is in violation of the principles of natural justice. In that view of the matter, we cannot sustain Ext.P2(a) order passed by the respondent authority. In a case of this nature, if we direct the appellant to treat Ext.P2(a) as a notice issued under Section 15(1) of the Act and then direct her to file her objections, if any, within a particular time and thereafter, direct the

assessing authority to complete the re-assessment proceedings in accordance with law, no prejudice will be caused to anyone of the parties.

5. Therefore, the following:

O R D E R

i) The writ appeal is disposed of.

ii) The appellant is directed to treat Ext.P2(a) dated 18.11.2002, as a notice issued under Section 15(1) of the Act and file her objections, if any, of the said notice within a month's time from today.

iii) If such objections are filed, the respondent authority will consider the same and pass appropriate orders in accordance with law.

iv) All the other contentions of both the parties are left open.

Ordered accordingly.

H.L.DATTU
Chief Justice

K.T.SANKARAN
Judge

ahz/DK.